

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA**

ACTION NC, et al.,)	
)	
Plaintiffs,)	Case No. 1:15-cv-1063 (LCB)(JLW)
)	
v.)	
)	
KIM WESTBROOK STRACH, et al.,)	
)	
Defendants.)	
)	
)	

[PROPOSED] ORDER

Upon consideration of the evidence presented by the parties' filings and after a hearing to show cause why a preliminary injunction should not issue, the Court finding that Plaintiffs Sherry Denise Holverson, Isabela Najera, Alexandra Marie Lane, Action NC, Democracy North Carolina, and North Carolina A. Philip Randolph Institute have shown that (a) they have a likelihood of success on the merit and face irreparable harm, (b) the balance of the equities tip in their favor, and (c) that injunctive relief as set forth herein is in the public interest, it is hereby ORDERED that

1. Defendants Kim Westbrook Strach and Rick Brajer (the "Section 7 Defendants") shall send a Mailing to each applicant or client ("Client") who engaged in a covered transaction (e.g., application, recertification , renewal, and/or change of address) ("Covered Transaction") with the North Carolina Department of Health and Human Services, a county Department of Health and Human Services in North Carolina, or any

other office that provides benefits under North Carolina's SNAP,¹ Medicaid, CHIP, TANF, and WIC programs since January 1, 2013 and through such time as the interim procedures outlined *infra* in paragraphs 7, 8 and 9 are put into place, whether the Covered Transaction took place in person, online, by phone, or by mail. This Mailing shall be sent to Clients unless the Section 7 Defendants provide (a) a hand-signed writing declining to register to vote; (b) a declination to register to vote in an ePass application submitted by the Client; or (c) proof that the Client is registered to vote at the address maintained by the Section 7 Defendants.

2. The Mailing shall include: a North Carolina Voter Registration Application coded with the specific code the State Board of Elections ("SBE") has created to track voter registration applications that originate from public assistance clients, a postage prepaid return envelope addressed to a single SBE office, and a DHHS Explanatory Letter. The Mailing will be sent bearing the return address of DHHS, using envelopes similar to those the DHHS regularly uses to correspond with clients. The Section 7 Defendants will send the Mailing within 30 days from the date this Order and will continue to send the mailing to DHHS clients who engage in a Covered Transaction after the date of the initial mailing until such time as the interim procedures outlined *infra* in paragraphs 7, 8 and 9 are put into place.

¹ In North Carolina, the SNAP program is called Food and Nutrition Services. See North Carolina Department of Health and Human Services, *Food and Nutrition Services (Food Stamps)*, <http://www.ncdhhs.gov/assistance/low-income-services/food-nutrition-services-food-stamps>.

3. The Section 7 Defendants will prepare an initial draft of the DHHS Explanatory Letter which will, at a minimum: explain to Clients that North Carolina Public Assistance Agencies are required to provide certain voter registration services pursuant to federal law; remind Clients of the deadline for registering to vote in the November 2016 General Election; include the voter toll-free number maintained by the SBE (1-866-522-4723); explain that the enclosed voter registration form can be completed and then mailed in with the provided envelope, delivered to any Public Assistance Office, or delivered to the election official in the city or town in which the client lives; and inform clients that they can visit any Public Assistance Office in person and receive assistance in registering to vote. The DHHS Explanatory Letter will also include the notices required by 52 U.S.C. § 20506(6)(B).

4. The Section 7 Defendants will deliver a draft of the DHHS Explanatory Letter to Plaintiffs' counsel no later than 14 calendar days before the date that it must be mailed. Thereafter, the Section 7 Defendants and Plaintiffs' counsel will confer in good faith to agree on the final content of the DHHS Explanatory Letter. If agreement is not reached by 21 days following the date of this order, any disputes regarding the letter will be resolved by the Court.

5. At least once during the first two weeks of each month through October 2016 SBE will contact each local Public Assistance Agency office to ensure that each office has a sufficient supply of voter registration forms (English and Spanish). A sufficient supply may be estimated by inter alia, reviewing the number of applications for

service in the same month in 2015. The SBE will ensure that each local office has at least a two-month's supply of voter registration forms (English and Spanish) on hand.

6. Each Public Assistance Agency employee with responsibility for interacting with clients shall receive training within 30 days of this issue of this Order addressing Section 7 NVRA compliance requirements and explaining the additional NVRA procedures described in paragraphs 1 through 9 of this Order. Any new employee orientation program conducted through the 2016 November election will include such training.

7. Within 15 days from the date this Order is issued until such time as a permanent resolution of this matter is reached, each Public Assistance Agency office will distribute a voter registration application and offer registration assistance to each Client who engages in an in-person Covered Transaction.

8. Within 30 days from the date this Order is issued until such time as a permanent resolution of this matter is reached, the Section 7 Defendants will send a Mailing to each Client who engages in a Covered Transaction by telephone, containing the DHHS Explanatory Letter described above and a North Carolina Voter Registration Application coded with the specific code the SBE has created to track voter registration applications that originate from public assistance clients.

9. Within 30 days from the date this Order is issued until such time as a permanent resolution of this matter is reached, the Section 7 Defendants will send a Mailing containing the DHHS Explanatory Letter described above and a North Carolina Voter Registration Application coded with the specific code the SBE has created to track

voter registration applications that originate from public assistance clients to each Client engaging in a Covered Transaction conducted via the “ePass” system who did not answer “no” to the voter preference question.

10. Following the issuing of this Order and until such time as this matter is resolved permanently, Defendant Strach shall ensure that any provisional ballot cast during an Election by an individual who does not appear on the roll at the individual’s current address but is otherwise eligible to vote will be counted if the individual states that he or she attempted to register to vote or change their address in a DMV in-person transaction, and if DMV has a record of a license application, renewal, or change of address for that voter during the time period from January 1, 2013 until resolution of this matter, regardless of whether the DMV has any record of the person having registered or attempted to register to vote or change his or her voter registration address during the transaction.

11. Following the issuing of this Order and until such time as this matter is resolved permanently Defendant Strach will post and prominently display a notice at all polling locations containing the information in the foregoing paragraph.

12. Following the issuing of this Order and until such time as this matter is resolved permanently, Defendants Kelly Thomas and Nick Tennyson (together with Defendant Strach, the “Section 5 Defendants”) will post and prominently display a notice DMV offices containing the information in paragraph 10.

13. The Section 5 Defendants will prepare an initial draft of the DMV Explanatory Letter which will, at a minimum: explain to Clients that North Carolina

DMV Offices are required to provide certain voter registration services pursuant to federal law; remind Clients of the deadline for registering to vote in the November 2016 General Election; include the voter toll-free number maintained by the SBE (1-866-522-4723); explain that the enclosed voter registration form can be completed and then mailed in with the provided envelope, delivered to any DMV Office, or delivered to the election official in the city or town in which the client lives; and inform clients that they can visit any DMV Office in person and receive assistance in registering to vote. The DMV Explanatory Letter will also include the notices required by 52 U.S.C. § 20504(c).

14. The Section 5 Defendants will deliver a draft of the DMV Explanatory Letter to Plaintiffs' counsel no later than 14 calendar days before the date that it must be mailed. Thereafter, the Section 5 Defendants and Plaintiffs' counsel will confer in good faith to agree on the final content of the DMV Explanatory Letter. If agreement is not reached by 21 days following the date of this order, any disputes regarding the letter will be resolved by the Court.

15. Within 30 days from the date this Order is issued until such time as a permanent resolution of this matter is reached, the Section 5 Defendants will send a voter registration application with a postage, pre-paid stamped envelope addressed to a single SBE office, with a DMV Explanatory Letter similar to that described above in paragraph 3, but consistent with the requirements of NVRA Section 5, to individuals who conducted online DMV driver's license transactions during the time period beginning January 1, 2013 through January 31, 2017 (or such earlier date as the Section 5 Defendants provide NVRA-compliant online voter registration through the DMV website). The voter

registration application shall be pre-filled with all of the information contained in the individual's DMV file that is relevant to voter registration, including, but not limited to, name, residence address, date of birth, and driver's license or identification card number.

16. Nothing in this Order shall be construed to reduce or eliminate any existing obligation placed on Defendants by the NVRA or state law.

Dated _____.

BY THE COURT

LORETTA C. BIGGS
UNITED STATES DISTRICT JUDGE